

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Charlotte Division

LOLEITHA (TINA) WILSON,

Plaintiff,

vs.

GUARDIAN PHARMACY OF
PIEDMONT CAROLINAS, LLC D/B/A
WINYAH PHARMACY AND
GUARDIAN PHARMACY, LLC,

Defendants.

Civil Action No. 3:16-cv-00495

**PARTIAL MOTION TO DISMISS OF
DEFENDANT GUARDIAN
PHARMACY OF PIEDMONT
CAROLINAS, LLC**

Defendant Guardian Pharmacy of Piedmont Carolinas, LLC (“Guardian Piedmont”) hereby moves for partial dismissal of the claims of Plaintiff Loleitha Wilson (“Plaintiff” or “Wilson”) pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Specifically, Guardian Piedmont moves to dismiss the following causes of action because they fail to state a claim upon which relief can be granted:

- (1) Count I, insofar as it purports to bring a claim for disability discrimination, retaliation or failure to accommodate a disability under Title VII of the Civil Rights Act, 42 U.S.C. § 2000e *et seq.* (“Title VII”) because Title VII does not provide protections to individuals with disabilities.
- (2) Count II, because this Court lacks jurisdiction over any claim brought under the North Carolina Persons with Disabilities Protection Act, N.C. Gen. Stat. § 168A *et seq.* (“NCPDPA”) because Plaintiff has commenced an action under the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* (“ADA”).

- (3) Count II, for the additional reason that any such claim under the NCPDPA was filed beyond the statute of limitations.
- (4) Count IV, insofar as Plaintiff is attempting to assert a retaliation claim under the North Carolina Equal Employment Practices Act, N.C. Gen. Stat. § 143-422.1 *et seq.* (“NCEEPA”), NCPDPA, or North Carolina Constitution, as none of these laws provides her with a plausible right of action for retaliation.
- (5) Count VI, because Plaintiff has not cited a North Carolina public policy that provides a basis for a wrongful discharge public policy claim.

Guardian Piedmont is filing herewith a Memorandum of Law in support of this Motion.

MCANGUS GOUDELOCK & COURIE, L.L.C.

s/Amy Y. Jenkins
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**ATTORNEYS FOR DEFENDANT GUARDIAN
PHARMACY OF PIEDMONT CAROLINAS,
LLC**

July 5, 2016

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CERTIFICATE OF SERVICE

I hereby certify that on 5th of July, 2016, I electronically filed the *Partial Motion to Dismiss of Defendant Guardian Pharmacy of Piedmont Carolinas, LLC* with the Clerk of Court using the CM/ECF system, and will also serve the pro se Plaintiff with a copy of same via U.S. Mail, postage prepaid, at the following address:

Loleitha Wilson
4815 Shea Court
Monroe, North Carolina 28110

MCANGUS GOUDELOCK & COURIE, L.L.C.

s/Amy Y. Jenkins

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